



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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FACT SHEET

NPDES Permit No.: AKG-31-5000

Date: *insert date*

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**The U.S. Environmental Protection Agency (EPA)
Re-proposes Effluent Limits Under the
National Pollutant Discharge Elimination System (NPDES) General Permit
for:**

**Oil and Gas Exploration, Development and Production Facilities
Located in State and Federal Waters
in Cook Inlet, Alaska**

EPA Re-proposes Effluent Limits

On May 25, 2007, EPA issued the NPDES General Permit for Oil and Gas Exploration, Development and Production Facilities in State and Federal Waters in Cook Inlet, AKG-31-5000 (General Permit), effective July 2, 2007. On June 17, 2007, a petition for review was filed with the Ninth Circuit Court of Appeals (Court) by Cook Inletkeeper, Cook Inlet Fishermen's Fund, the Native Village of Nanwalek, and the Native Village of Port Graham (Petitioners) pursuant to Clean Water Act (CWA) Section 509(b)(1)(F), 33 U.S.C. § 1369(b)(1)(F). Among other things, Petitioners challenged the effluent limits in the General Permit that became less stringent than the previous permit, claiming that these less stringent limits were not supported by an adequate antidegradation analysis.

On March 15, 2010, EPA filed a Motion for a Voluntary Remand (Motion). The Motion requested the Court to remand the less stringent produced water effluent limits for mercury, copper, total aromatic hydrocarbons (TAH), total aqueous hydrocarbons (TAqH), and whole effluent toxicity (WET) to allow EPA to reconsider the inclusion of these limits in the General Permit. On October 21, 2010, the Court issued a Memorandum which granted EPA's Motion, subject to specific reporting requirements (Ninth Circuit, Case No. 07-72420). As a result, the

Court remanded the mercury, copper, TAH, TAqH, and WET produced water effluent limits to EPA.

In response, EPA has prepared a draft re-proposal of the General Permit addressing the following effluent limits for produced water (Outfall 015): mercury, copper, TAH, TAqH, silver, and WET. EPA is seeking public comment on this re-proposal of the produced water effluent limits under the General Permit.

This Fact Sheet includes:

- Information on public comment, public hearing, and appeal procedures,
- A description of the re-proposed less stringent effluent limits for produced water for the individual facilities, and
- Technical material supporting the proposed conditions in the permit.

Alaska State Certification

EPA requests that the Alaska Department of Environmental Conservation (ADEC) certify the re-proposed conditions of the General Permit under Clean Water Act (CWA) Section 401, 33 U.S.C. § 1341. EPA may not finalize the less stringent limits for produced water in the General Permit until ADEC has provided EPA with a final 401 Certification that includes an antidegradation analysis consistent with the State's antidegradation policy, 18 AAC 70.015.

On **insert date**, ADEC provided EPA with a draft Certification and antidegradation analysis.

Persons wishing to comment on State Certification should submit written comments by the public notice expiration date to ADEC, Division of Water, Attn: Sharmon Stambaugh, 555 Cordova Street, Anchorage, Alaska 99501-2617 or sharmon.stambaugh@alaska.gov.

Alaska Coastal Management Program (ACMP)

On May 31, 2006, the State of Alaska, Division of Coastal and Ocean Management (DCOM) found the General Permit consistent with Alaska's coastal management programs. This General Permit re-proposal would either not change the permit limits for produced water, or they would become more stringent. Thus, since the re-proposal will have no additional effect on coastal uses and resources pursuant to 11 AAC 110.820(k)(4), it will not require further ACMP review.

EPA Invites Comments on the Re-proposal of the Less Stringent Limits

EPA will consider all substantive comments specific to the re-proposal before making a final decision on the application of effluent limits to the produced water discharges under the General Permit. Those who wish to comment on the re-proposed limits may do so in writing within 30 days from the date of the Federal Register notice. EPA will only be accepting comments on the re-proposed effluent limits. All comments should include name, address, phone number, a concise statement of basis of comment and relevant facts upon which it is based. All written comments should be addressed to:

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Seattle, WA 98101
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After the public notice expires and all substantive comments have been considered, EPA Region 10's Director for the Office of Water & Watersheds will make a final decision regarding the set of effluent limits that apply to the produced water discharges under the General Permit. If no comments requesting a change in the re-proposal are received, the less stringent effluent limits in the re-proposal will become final. If substantive comments are received, EPA will address the comments and explain its decision in choosing the applicable permit limits in the General Permit along with a response to comments. Pursuant to Section 509(b)(1) of CWA, 33 U.S.C. § 1369(b)(1), any interested persons may appeal the re-proposed produced water effluent limits under the General Permit in the Ninth Circuit Court of Appeals within 120 days following notice of EPA's final decision.

Documents are available for review

The draft re-proposal of the less stringent effluent limits for produced water discharges in the General Permit and fact sheet can be reviewed and copied at the following EPA offices between 8:30 a.m. and 4:00 p.m., Monday through Friday:

USEPA Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Telephone: (206) 553-0171

USEPA Alaska Operations Office
Federal Building, Room 537
222 West 7th Avenue
Anchorage, Alaska 99513-7588
Telephone: (800) 781-0983 (in Alaska)

The documents are also available on the internet at the EPA, Region 10 website at:
<http://yosemite.epa.gov/r10/WATER.NSF/NPDES+Permits/DraftPermitsAK>

Description of EPA's Re-proposal of Less Stringent Effluent Limits

Background

On May 25, 2007, EPA issued the final General Permit, with an effective date of July 2, 2007. The Permit included the following less-stringent limits for the produced water discharges from existing production facilities (Outfall 015): mercury, copper, TAH, TAqH, silver, and WET.

On June 15, 2007, Petitioners filed a Petition for Review (Petition) with the Court challenging EPA's approval and issuance of the General Permit. Among other grounds, Petitioners challenged EPA's issuance of effluent limits that were less stringent than the effluent limits in the previous permit for produced water discharges. Specifically, in order to include less stringent limits in the General Permit (i.e., backsliding from the previous limits), EPA must ensure that the limits are consistent with the State's antidegradation policy. *See* 33 U.S.C. § 1313(d)(4)(B). Petitioners argued that the less stringent effluent limits were not consistent with the State's antidegradation policy because (1) ADEC's antidegradation analysis did not go through public notice and comment, and (2) ADEC did not have antidegradation implementation procedures.

EPA conceded that ADEC did not provide adequate opportunity for public comment on the State's antidegradation analysis. EPA requested a voluntary partial remand of the less stringent produced water effluent limits (Outfall 015) in the General Permit to reconsider those effluent limits. In this Motion, EPA requested remand of the following effluent limits: mercury, copper, TAH, TAqH, and WET.

On July 14, 2010, ADEC developed interim antidegradation implementation methods. On July 15, 2010, EPA informed ADEC that the interim antidegradation implementation methods are consistent with EPA's antidegradation regulations at 40 C.F.R. § 131.12, as well as Alaska's antidegradation policy at 18 AAC 70.015.

Subsequently, on October 21, 2010, the Court issued its Memorandum which, in part, granted EPA's Motion, subject to certain reporting requirements. Therefore, the Court remanded the mercury, copper, TAH, TAqH, and WET produced water effluent limits.

Effluent Limits Subject to the Re-proposal

EPA is re-proposing the less stringent produced water effluent limits that are in the current General Permit. At the time EPA made its Motion to the Court, EPA inadvertently left out the less stringent silver effluent limit for produced water. This was an error and EPA should have included this limit in the remand request. Therefore, EPA has also included the silver effluent limit in this re-proposal. EPA is also proposing the corresponding more stringent effluent limits that existed in the previous Cook Inlet general permit. If EPA finds that ADEC's antidegradation analysis does not meet water quality standards, EPA will impose the more stringent effluent limits that existed in the previous Cook Inlet general permit. EPA is taking comment on the re-proposed effluent limits for produced water and the strategy to revert back to the previous limits, if necessary.

The following series of tables compare the less stringent limits for the produced water discharges currently authorized under the General Permit and the limits from the previous general permit (AKG-28-5000) for the facilities in Cook Inlet.

Granite Point Treatment Facility and Platform
(AKG-31-5001 and AKG-31-5015)

| Parameter | Effluent Limitations from Current General Permit (AKG-31-5000) | | Effluent Limitations from Previous General Permit (AKG-28-5000) | |
|-----------|--|---------------------|---|---------------------|
| | Average Monthly Limit | Daily Maximum Limit | Average Monthly Limit | Daily Maximum Limit |
| WET | 1341 TUc | 2691 TUc | 91 TUc | 133 TUc |

The East Foreland Facility
(AKG-31-5003)

| Parameter | Effluent Limitations from Current General Permit (AKG-31-5000) | | Effluent Limitations from Previous General Permit (AKG-28-5000) | |
|--------------------------|--|---------------------|---|---------------------|
| | Average Monthly Limit | Daily Maximum Limit | Average Monthly Limit | Daily Maximum Limit |
| TAqH ^{note 1} | --monitor-- | --monitor-- | 63.5 mg/L | 92.7 mg/L |
| Silver ^{note 3} | -- | 149 µg/L | -- | 97 µg/L |
| WET | 1209 TUc | 2425 TUc | 79 TUc | 115 TUc |

Platform Anna
(AKG-31-5004)

| Parameter | Effluent Limitations from Current General Permit (AKG-31-5000) | | Effluent Limitations from Previous General Permit (AKG-28-5000) | |
|---------------------------|--|---------------------|---|---------------------|
| | Average Monthly Limit | Daily Maximum Limit | Average Monthly Limit | Daily Maximum Limit |
| TAH ^{note 1} | 109 mg/L | 183 mg/L | 58.9 mg/L | 86.0 mg/L |
| TAqH ^{note 1} | --monitor-- | --monitor-- | 88.4 mg/L | 129.0 mg/L |
| Mercury ^{note 3} | -- | 9.5 µg/L | -- | 8.23 µg/L |
| WET | 574 TUc | 1152 TUc | 333 TUc | 486 TUc |

Platform Bruce

(AKG-31-5006)

| Parameter | Effluent Limitations from Current General Permit (AKG-31-5000) | | Effluent Limitations from Previous General Permit (AKG-28-5000) | |
|-----------|--|---------------------|---|---------------------|
| | Average Monthly Limit | Daily Maximum Limit | Average Monthly Limit | Daily Maximum Limit |
| WET | 2149 TUc | 4312 TUc | 625 TUc | 912 TUc |

Platform Baker

(AKG-31-5005)

| Parameter | Effluent Limitations from Current General Permit (AKG-31-5000) | | Effluent Limitations from Previous General Permit (AKG-28-5000) | |
|------------------------|--|---------------------|---|---------------------|
| | Average Monthly Limit | Daily Maximum Limit | Average Monthly Limit | Daily Maximum Limit |
| Zinc ^{note 3} | 6.7 mg/L | -- | 5.33 mg/L | -- |
| WET | 172 TUc | 345 TUc | 72 TUc | 100 TUc |

Platform Dillon

(AKG-31-5007)

| Parameter | Effluent Limitations from Current General Permit (AKG-31-5000) | | Effluent Limitations from Previous General Permit (AKG-28-5000) | |
|------------------------|--|---------------------|---|---------------------|
| | Average Monthly Limit | Daily Maximum Limit | Average Monthly Limit | Daily Maximum Limit |
| TAqH ^{note 1} | --monitor-- | --monitor-- | 61.0 mg/L | 88.9 mg/L |
| WET | 293 TUc | 588 TUc | 119 TUc | 174 TUc |

Trading Bay Production Facility
(AKG-31-5002)

| Parameter | Effluent Limitations from Current General Permit (AKG-31-5000) | | Effluent Limitations from Previous General Permit (AKG-28-5000) | |
|------------------------|--|---------------------|---|---------------------|
| | Average Monthly Limit | Daily Maximum Limit | Average Monthly Limit | Daily Maximum Limit |
| TAH ^{note 1} | 18 mg/L | 27 mg/L | 12.2 mg/L | 24.5 mg/L |
| TAqH ^{note 1} | --monitor-- | --monitor-- | 18.3 mg/L | 36.8 mg/L |
| WET | 283 TUc | 568 TUc | 96 TUc | 140 TUc |

Tyonek A
(AKG-31-5011)

| Parameter | Effluent Limitations from Current General Permit (AKG-31-5000) | | Effluent Limitations from Previous General Permit (AKG-28-5000) | |
|--------------------------|--|---------------------|---|---------------------|
| | Average Monthly Limit | Daily Maximum Limit | Average Monthly Limit | Daily Maximum Limit |
| TAqH ^{note 1} | --monitor-- | --monitor-- | 3.11 mg/L | 4.53 mg/L |
| Copper ^{note 3} | 328 µg/L | 1033 µg/L | 40 µg/L | 58 µg/L |
| WET | 268 TUc | 537 TUc | 11 TUc | 16 TUc |

Footnotes:

- ¹ Monthly TAqH monitoring is required under the General Permit.
- ² Pursuant to EPA's minor modification letter on June 27, 2007, quarterly monitoring of total ammonia is required.
- ³ All metals limits are in total recoverable form, except mercury, which is total.

EPA's Rationale for the Permit Re-proposal

As explained in the 2007 Fact Sheet, EPA found reasonable potential for mercury, copper, TAHs, TAqH, silver, and WET. The effluent limits that EPA calculated were less stringent than the previous permit. Consequently, in order to allow less stringent limits in the General Permit, EPA needed to ensure that the limits were consistent with the State's antidegradation policy. During the appeal of the General Permit, EPA concluded that it erred in accepting the State's 401 certification and antidegradation analysis because the analysis did not go through a public comment period as required by the State's antidegradation policy. As a result, EPA filed the Motion with the Court and requested that the Court remand the less stringent mercury, copper, TAH, TAqH, and WET effluent limits. The Court granted that request.

When EPA filed the Motion, EPA mistakenly left out the less stringent silver effluent limit. Pursuant to 40 CFR § 122.62(a)(15), EPA is including the silver effluent limit in this re-proposal. Therefore, EPA is re-proposing the following effluent limits: mercury, copper, silver, TAH, TAqH, and WET

Section 402(o) of the CWA states that a permit may not be renewed, reissued or modified to incorporate less stringent effluent limitations than those set forth in the previous permit unless one of the anti-backsliding exceptions applies. CWA Section 402(o)(1) allows for an anti-backsliding exception that is applicable to water quality based effluent limits. This section allows backsliding if the revised limits are established in compliance with CWA Section 303(d)(4). For attainment waters, such as Cook Inlet, backsliding is authorized if the revision is consistent with the State's antidegradation policy.

On **insert date**, ADEC provided EPA with a draft 401 certification which includes an antidegradation analysis for the re-proposed limits.

In addition, EPA is re-proposing the corresponding more stringent effluent limits that were in the previous Cook Inlet General Permit. Although EPA believes that ADEC's draft antidegradation analysis provides an adequate basis to allow for backsliding **[to be confirmed upon receipt of draft cert]**, EPA is accepting comments on the applicability of the exception to antibacksliding. If the antibacksliding exception is not applicable, then EPA will impose the more stringent effluent limits in the previous Cook Inlet General Permit. Therefore, EPA is also accepting comments on the strategy of reverting back to the more stringent effluent limits. EPA is not accepting comments on how those more stringent limits were calculated.